

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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STEVEN MARSHALL, :  
Plaintiff, : **ORDER**  
- against - :  
JAMES GARCIA, THOMAS A. GERMANO JR., and :  
WARREN C. FREEMAN, :  
Defendants. :  
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PHILIP M. HALPERN, United States District Judge:

Counsel for all parties appeared for an in-person pretrial conference on March 21, 2023.

For the reasons set forth on the record and after hearing from the parties, Defendants' motion *in limine* (Doc. 158) is GRANTED and Plaintiff's motion *in limine* (Doc. 161) is GRANTED IN PART. In lieu of preclusion, the Court directed that Plaintiff may depose Mr. Fernekes and Dr. Gusman at a mutually agreeable date and time. Defendants shall promptly respond to any document requests arising out of those depositions and produce discoverable material to Plaintiff.

As explained more fully on the record during the appearance, the Court directs as follows:

1. The parties shall meet and confer regarding the Court's directives and instructions regarding changes to the Joint Pretrial Order (Doc. 155) and file, by April 24, 2023, an Amended Proposed Joint Pretrial Order.
2. The questions in the parties' Proposed *Voir Dire* (Doc. 156) are all granted or granted in substance except that proposed questions 17 and 36 are denied.
3. The parties shall review the proposed *Voir Dire* Questionnaire Form provided by the Court during the conference and file, by April 24, 2023, a joint letter informing the Court as to any objections or additions thereto.
4. The parties shall meet and confer regarding changes to the proposed Verdict Sheet and file, by April 24, 2023, a joint proposed Verdict Sheet, with the caveat that the question of joint and several liability for damages will be revisited prior to submission to the jury.

5. The parties shall meet and confer regarding objections in the Proposed Jury Instructions (Doc. 157) and file, by April 24, 2023, Amended Proposed Jury Instructions.
6. Three exhibit binders containing the parties' exhibits (without duplicates), and an index listing the content of the binders shall be produced to the Court at least one week prior to trial.
7. The Court will endeavor to notify the parties at the earliest practicable time whether this matter will proceed to trial in place of the primary case scheduled for August 14, 2023. The alternative trial date is October 10, 2023, should this matter not proceed to trial on August 14, 2023.

The Clerk of the Court is respectfully directed to terminate the motion sequences pending at Doc. 158 and Doc. 161.

**SO ORDERED:**

Dated: White Plains, New York  
March 21, 2023



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PHILIP M. HALPERN  
United States District Judge